IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	**Art Unit: 1647**
	)	
EISENBACH-SCHWARTZ et al	)	Examiner: B. Bunner
	)	
Appln. No.: 09/314,161	)	Washington, D.C.
	)	
Filed: May 19, 1999	)	April 25, 2001
	)	
For: ACTIVATED T-CELLS, NERVOUS SYSTEM-SPECIFIC ANTIGENS AND THEIR USES	)	Atty. Docket: EIS-SCHWARTZ=2

RESPONSE TO RESTRICTION REQUIREMENT

Honorable Commissioner for Patents
Washington, D.C. 20231

Sir:

The Office Action of February 28, 2001, primarily in the nature of a requirement for restriction, has been carefully reviewed. Petition and payment for a one month extension of time are attached hereto.

Restriction has been required between what the examiner deems to be eight patentably distinct inventions, namely:

Group I, drawn to a method for preventing or inhibiting neuronal degeneration in the CNS or PNS comprising administering to an individual NS-specific activated T cells, and presently comprising claims 1-8, 16 and 19;

Group II, drawn to a method for preventing or inhibiting neuronal degeneration in the CNS or PNS comprising administering to an individual a NS-specific antigen or a peptide derived from a NS-specific antigen, and presently comprising claims 1-3 and 9-16;

Group III, drawn to a method for preventing or inhibiting neuronal degeneration in the CNS or PNS comprising administering to an individual a nucleotide sequence encoding a NS-specific antigen or a nucleotide sequence encoding a peptide derived from a NS-specific antigen, and presently comprising claims 1-3 and 16;

Group IV, drawn to a method for preventing or inhibiting neuronal degeneration in the CNS or PNS comprising administering a composition for up-regulating B7.2 costimulatory molecule in, and presently comprising claim 17;

Group V, drawn to a cell bank comprising T cells which have been expanded against CNS antigen, and presently comprising claims 18 and 37;

Group VI, drawn to a composition for preventing or inhibiting neuronal degeneration in the CNS or PNS comprising NS-specific activated T cells, and presently comprising claims 20-27, 35 and 36;

Group VII, drawn to a composition for preventing or inhibiting neuronal degeneration in the CNS or PNS comprising a NS-specific antigen or a peptide derived from a NS-specific antigen, and presently comprising claims 20-22 and 28-36; and

Group VIII, drawn to a composition for preventing or inhibiting neuronal degeneration in the CNS or PNS comprising a nucleotide sequence encoding a NS-specific antigen or a nucleotide sequence encoding a peptide derived from a NS-specific antigen, and presently comprising claims 20-22, 35 and 36.

Applicants hereby provisionally elect with traverse Group I, presently comprising claims 1-8, 16 and 19. As further required by the examiner, applicants elect without traverse spinal cord injury (specie Ia) as the specie of nervous system injury, glaucoma (specie Im) as the specie of nervous system disease, and autologous T cells (specie Ir) as the specie of NS-specific activated T cell group. For the specie of spinal cord injury, the claims readable thereon in provisionally elected Group I are claims 1, 2, 4-8, 16, and 19. For the specie of glaucoma, the claims readable thereon in provisionally elected Group I are claims 1, 3-8, 16, and 19. For the specie of autologous T cells, the claims readable thereon in provisionally elected Group I are claims 1-7, 16, and 19.

The restriction between Groups I and II is traversed because it appears from the undersigned's understanding of the invention that activated T cells that recognize an antigen of the nervous system (NS) are required in the method, whether administered as activated T cells or whether activated *in vivo* by administering a NS-specific antigen or a peptide derived from a NS-specific antigen as disclosed in the specification on pages 5-6. Accordingly, even though Groups I and II may be patentably distinct, they are both directed to using NS-specific activated T cells, whether "pre-activated" or activated after administration of a NS-specific antigen, and therefore should be examined together. It is believed that examination would not be complete if "pre-activated" or "activated by administration of NS-specific antigen" NS-specific activated T cells are not examined together.

Furthermore, the second paragraph of MPEP §803 requires that there be a "serious burden" in order to properly make a restriction requirement, even if the requirement is otherwise correct. Applicants believe that there is no serious burden on the examiner to examine Groups I and II together on the merits.

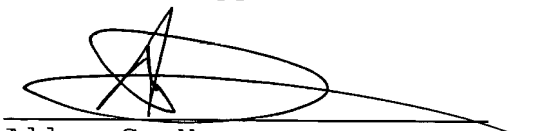
It is respectfully pointed out that an eight way restriction requirement on a patent application is clearly onerous to the present applicants, as it would be to any applicant. Under these circumstances (and even if the groups are indeed patentably distinct, i.e., one is *prima facie* patentable over another), the restriction requirement should be at least partially withdrawn because it is burdensome to applicants.

Accordingly, withdrawal of the restriction requirement with respect to Groups I and II is respectfully requested.

Favorable reconsideration and examination of Groups I and II on the merits are therefore earnestly urged.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

By 
Allen C. Yun
Registration No. 37,971

ACY:pr
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528

F:\,Y\YEDA\Eis-Schwartz2\Pto\response to restriction requirement.wpd